IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

OP.No. 30352 of 2002(L)

PETITIONER:

A.B.KUTTAN, ARAYAPARAMBIL HOUSE,
KOTHAPARAMBA, KODUNGALLUR, THRISSUR DISTRICT

BY ADV. SRI.A.SUDHI VASUDEVAN

RESPONDENTS:
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1. THE EXCISE COMMISSIONER, COMMISSIONERATE OF EXCISE, THIRUVANANTHAPURAM

2. THE ASSISTANT EXCISE COMMISSIONER, THRISSUR

3. SMT. FATHIMA W/O. V.K. ABDUL RAHIMAN, LOKAMALLESWARAM, KODUNGALLUR.

4. SMT. ASIYUMMA, LOKAMALLESWARAM, KODUNGALLUR.

ADDL. R5. SECRETARY,
KODUNGALLUR MUNICIPALITY
(impleaded as per order dated 8-4-03 in CMP 21397/03.)

BY GOVERNMENT PLEADER SRI.P.BENJAMIN PAUL
SRI.T.A.SHAJI
SRI.S.VIJAYAKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the order dated 27-4-2001 on CMP 22256/02 in O.P.No.13981/01 of this Hon. Court.

Ext.P2: True copy of the judgment dated 11-7-2002 in O.P.13981/01 of this Hon. Court.

Ext.P3: True copy of the order dated 15-7-2002 on CMP 33384/02 in Original Petition 13981 of this Hon. Court.

Ext.P4: True copy of the order dated 26-9-2002 passed by this Hon. Court on R.P.690/02 in O.P.24860/02 of this Hon. Court.

Ext.P5: True copy of the application dated 21-3-2000 submitted by the petitioner to the 2nd respondent.

Ext.P6: True copy of the order dated 27-3-2000 issued by the 2nd respondent to the petitioner.

Ext.P7: True copy of the common judgment dated 18-1-2001 in O.P.9904/00, O.P.35895/00 and O.P.9847/00 of this Hon. Court.

Ext.P8: True copy of the letter dated 27-3-2001 submitted by the petitioner to the 2nd respondent.

Ext.P9: True copy of the application dated 18-4-2001 submitted by the petitioner to the 2nd respondent.

Ext.P10: True copy of the application dated 11-5-2001, submitted by the petitioner to the 1st respondent through the Circle Inspector of Excise, Kodungallur.

Ext.P11: True copy of the order No.XC6-23649/98 dated 8-7-2002 passed by the 1st respondent.

Ext.P12: True copy of the judgment dated 29-8-2002 in W.A.No.935 of 2002 (D).

Ext.P13: True copy of application for licence dated 31-3-2003 submitted by the petitioner.

Ext.P13(a): True copy of application dated 31-3-2003 for licence to manufacture food for sale.

Ext.P14: True copy of letter dated 29-3-2003 along with which Exts.P13 and P13(a) applications were submitted by the petitioner.

Ext.P15: True copy of order dated 5-4-2003 issued by Secretary, Kodungallur Municipality.

Ext.P16: True copy of order dated 5-4-2003 issued by Secretary, Kodungallur Municipality rejecting Exts.P13 and P13 (a) applications.

Ext.P17: True copy of lease deed dated 18-3-94 executed by Power of Attorney holder of respondents 3 and 4, V.K.Abdul Rahiman.

Ext.P18: True copy of letter No.R2-3571/01 dated 19-5-2001 issued by the Asst. Excise Commissioner, Trichur.

Ext.P19: True copy of restaurant licence dated 22-9-2006 issued by Kodungallur Municipality.

RESPONDENT'S EXHIBITS:

Ext.R1(a): True copy of G.O.(P)110/03 TD dated 8-7-2003.

Ext.R1(b): True copy of G.O.(P)No.22/02 TD dated 30-3-2002.

// True copy //

P.A. to Judge

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C.N.RAMACHANDRAN NAIR, J.

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O.P.No.30352 OF 2002

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Dated this the 4th day of December 2006

JUDGMENT

The prayer in the O.P. is for a direction to Excise Commissioner to renew the Bar licence granted to the petitioner. It is seen that renewal is declined for the reason that building owner did not approve terms of the lease. Consequently, petitioner lost facilities to entitle him for renewal of licence. The counsel for the petitioner and counsel for the building owner stated that there is settlement between them and therefore terms agreed enable the petitioner to get renewal of the licence. Since the licence period for this year will be over in three months, there may not be any scope for renewal of license for the current Abkari year. However, if petitioner offers full licence fee I see no reason why licence should not be issued to him for this year itself; if he is otherwise entitled. In any case, petitioner can apply for renewal next year (2007-08).

Writ petition is therefore disposed of with a direction to Excise Commissioner to consider renewal of FL3 licence for the next financial year (2007-2008) based on additional facilities to

be provided within the same building with the consent of the building owner. If petitioner arranges facilities which entitles him for renewal of licence and is willing to pay full licence fee for the whole year, I feel in Government interest, the Commissioner should renew the licence for the balance period of current year. Petitioner can after making arrangements and after providing facilities apply for renewal of licence for this year also and Commissioner on being satisfied will renew the licence on collection of full licence fee.

C.N.RAMACHANDRAN NAIR, JUDGE

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